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August 16, 2001

Via Electronic Filing

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A306
Washington, D.C. 20054

**Re: Reply Comments of Hearst-Argyle Television, Inc.
CS Docket No. 98-120; CS Docket No. 00-96; CS Docket No. 00-2**

Dear Ms. Salas:

Transmitted herewith via the Commission's Electronic Comment Filing System, on behalf of Hearst-Argyle Television, Inc., are the Reply Comments of Hearst-Argyle Television, Inc., for filing in the above-captioned proceedings.

If any questions should arise during the course of your consideration of this matter, it is respectfully requested that you communicate with this office.

Sincerely,


Wade H. Hargrove

WHH/jek
Enclosure

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Carriage of Digital Television Broadcast)	CS Docket No. 98-120
Signals)	
)	
Amendments to Part 76)	
of the Commission's Rules)	
)	
Implementation of the Satellite Home)	
Viewer Improvement Act of 1999:)	
)	
Local Broadcast Signal Carriage Issues)	CS Docket No. 00-96
)	
Application of Network Non-Duplication,)	CS Docket No. 00-2
Syndicated Exclusivity and Sports Blackout)	
Rules to Satellite Retransmission of)	
Broadcast Signals)	

To: The Commission

REPLY COMMENTS OF HEARST-ARGYLE TELEVISION, INC.

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Date: August 16, 2001

Counsel to Hearst-Argyle Television, Inc.

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Carriage of Digital Television Broadcast Signals)	CS Docket No. 98-120
)	
Amendments to Part 76 of the Commission's Rules)	
)	
Implementation of the Satellite Home Viewer Improvement Act of 1999:)	
)	
Local Broadcast Signal Carriage Issues)	CS Docket No. 00-96
)	
Application of Network Non-Duplication, Syndicated Exclusivity and Sports Blackout Rules to Satellite Retransmission of Broadcast Signals)	CS Docket No. 00-2
)	

To: The Commission

REPLY COMMENTS OF HEARST-ARGYLE TELEVISION, INC.

Hearst-Argyle Television, Inc. ("Hearst-Argyle"), by its attorneys, and pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419 (2000), hereby files the following Reply Comments in accordance with the *Further Notice of Proposed Rulemaking* ("Further Notice"), FCC 01-22, released January 23, 2001, in the above-captioned proceeding.¹

Hearst-Argyle submits these Reply Comments in response to the assertion in Comments of the American Cable Association ("ACA") that an unidentified ACA member was forced to carry

¹ By Order released July 17, 2001, the deadline for filing reply comments in this proceeding was extended to August 16, 2001.

Lifetime as a condition to receiving retransmission consent from an unidentified Hearst-Argyle ABC affiliate. ACA then goes on to contradict its own assertion. ACA acknowledges that the unidentified cable operator was offered a separate price to carry Hearst-Argyle's station without carriage of Lifetime.² Clearly, then, Hearst-Argyle did not condition or tie retransmission consent for its ABC affiliate to carriage of Lifetime.

ACA notes that the cable operator was allegedly quoted a price of \$.50 per subscriber per month for retransmission consent for the ABC affiliate, alone, or the option of \$.30 per month if the cable system carried Lifetime. Thus, the cable operator was offered a lesser price for two program services than it would have paid for only one program service. ACA's assertion of consumer harm is, therefore, without any basis of support. These are the very kind of "marketplace considerations" the Commission noted in adopting its retransmission consent rules and which the Commission only last week affirmed in *EchoStar Satellite Corporation v. Young Broadcasting, Inc.*, File No. CSR-5655-C, DA 01-1865, Memorandum Opinion and Order (August 6, 2001).

Moreover, even if retransmission rights for Lifetime and the ABC affiliate were not offered separately and individually, that, by itself, would not constitute a violation of the Commission's "good faith" negotiation requirement. In adopting its "good faith" negotiation requirements, the Commission stated:

We believe that the following examples of bargaining proposals presumptively are consistent with competitive marketplace considerations and the good faith negotiation requirement:

* * *

² See ACA Comments at 11.

3. Proposals for carriage conditioned on carriage of any other programming, such as a broadcaster's digital signals, *an affiliated cable programming service*, or another broadcast station either in the same or a different market.

Implementation of the Satellite Home Viewer Improvement Act of 1999, Retransmission Consent

Issues: Good Faith Negotiation and Exclusivity, First Report and Order, CS Docket No. 99-363, 15

FCC Rcd 5445, 5469, FCC 99-363 (Released: March 16, 2000) (emphasis added).

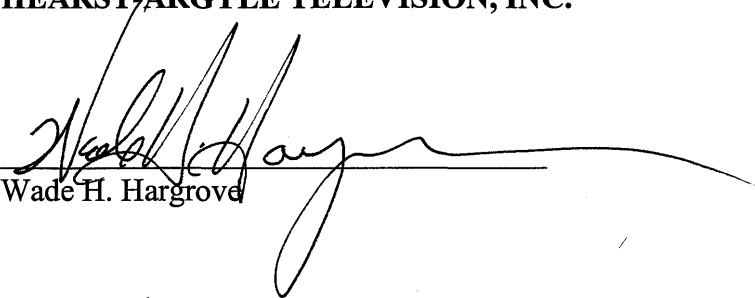
Conclusion

The Comments of ACA concerning Hearst-Argyle demonstrate on their face that no tying occurred. Even if it had shown a tying arrangement, ACA has failed to make any demonstration that would overcome the Commission's previous conclusion that such arrangements are *prima facie* consistent with the obligation imposed on television broadcasters to negotiate in good faith.

Respectfully submitted,

HEARST-ARGYLE TELEVISION, INC.

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Date: August 16, 2001

Its Attorneys